

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION

CHARLES N. WHITE CONSTRUCTION  
COMPANY

PLAINTIFF

vs.

Civil Action No. 2:94cv137-D-D

MRA, LTD., d/b/a CASINO  
BELLE OF TUNICA; MISSISSIPPI  
RIVERBOAT AMUSEMENT, LTD.;  
MISSISSIPPI RIVERBOAT AMUSEMENT  
CORP.; G. "JIM" HASSLOCHER;  
CHRIS GIBASE; NEAL MILLER;  
BELLE CASINOS, INC.;  
BILOXI CASINO BELLE, INC.; FIRST  
TRUST NATIONAL ASSOCIATION;  
ENTITIES "A", "B", "C", "D"  
and "E", UNKNOWN HOLDERS OF  
WARRANTS AND OF FIRST MORTGAGE  
NOTES, Due 2000 of BELLE CASINOS,  
INC.; FIRST NATIONAL BANK OF  
COMMERCE; TRI-STATE SPRINKLER CORP.;  
FERGUSON ENTERPRISES, INC.; ITT  
COMMERCIAL FINANCE CORP.; R.M.  
LEATHERMAN and HUGH M. MAGEVNEY, III

DEFENDANTS

MEMORANDUM OPINION

This matter is before the undersigned on the motion of defendant First National Bank of Commerce<sup>1</sup> (hereinafter "F.N.B.C.") to Transfer Venue of this action to the United States District Court for the Southern District of Mississippi, where defendants Biloxi Casino Belle, Inc., and Belle Casinos, Inc. have pending proceedings in bankruptcy. Further, this court takes notice of the fact that property which is in part the subject matter of this action constitutes property of the bankruptcy estates. Finding

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<sup>1</sup> Defendants G. "Jim" Hasslocher, Chris Gibase, Neal Miller, MRA, Ltd., Mississippi Riverboat Amusement, Belle Casinos, Inc., and Biloxi Belle Casino, Inc. have all joined First National Bank in this motion.

this motion well taken, the same will be granted. All pending motions which remain before this court, including the Motion to Abstain or Remand filed by the plaintiff, will be transferred without necessity of refiling by the parties.

#### DISCUSSION

This cause was originally filed by the plaintiff White Construction Company in the Circuit Court of Tunica County, Mississippi on July 8, 1994. The entirety of this litigation surrounds the construction, operation, and eventual business demise of the Southern Belle Casino and the Biloxi Belle Casino. There are a substantial number of defendants in this action, and there are multiple issues of state law, and potential issues of Federal law. Both Biloxi Casino Belle, Inc., and Belle Casinos, Inc. filed petitions for bankruptcy relief in the United States Bankruptcy Court for the Southern District of Mississippi. This action was then removed to this court based upon the involvement of these bankruptcy proceedings. 28 U.S.C. § 1452; Fed. R. Bankr. Proc. 9027(a)(1). Although the bankruptcy proceedings are pending in the Southern District of Mississippi, removal to this district was required by statute. 28 U.S.C. § 1452 ("A party may remove any claim or cause of action [related to a bankruptcy case] . . . to the district court for the district where such civil action is pending . . . ).

This court has subject matter jurisdiction over the matter at bar and is also a proper venue for this action. See Searcy v. Knostman, 155 B.R. 699, 703 (S.D. Miss. 1993); In re Trafficwatch, 138 B.R. 841, 843-44 (Bkrtcy. E.D. Tex. 1992). However, this court

also has the discretion to transfer this case to another, more appropriate venue. It is apparent to this court that the plaintiff's complaint implicates matters which are clearly "core" matters under Federal bankruptcy law, e.g., claims directly against the bankrupt parties and claims involving property of the bankruptcy estate. 28 U.S.C. § 157. These matters are properly transferred by this court under 28 U.S.C. § 1412 to "a district court for another district in the interest of justice or for the convenience of the parties." 28 U.S.C. § 1412. All other matters in this action may also be properly transferred by this court. 28 U.S.C. 1404(a) ("For the convenience of parties and witnesses, in the interest of justice, a district court may transfer a civil action to any other district or division where it might have been brought"). The arguments of F.N.B.C. are persuasive, and all of the relevant factors to this determination have been considered. See Searcy, 135 B.R. at 706-709 (discussing relevant factors and considerations). This court is convinced that the United States District Court for the Southern District of Mississippi<sup>2</sup> is a much more appropriate forum for the disposition of this case, including the remaining motions which are pending before this court.<sup>3</sup> The

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<sup>2</sup> This court recognizes that once this matter reaches the Southern District it will likely, but not necessarily, be referred immediately to that district's Bankruptcy Court via standing order. 28 U.S.C. § 157(a).

<sup>3</sup> Notably, there remains before this court a Motion to Abstain or Remand, filed by the plaintiff Charles White Construction Co. The brevity of this Memorandum Opinion is due in large part to the requests of counsel for the plaintiff that a ruling on that motion be expedited. This court hopes that the court in the Southern District recognizes that the plaintiff's concerns regarding a ruling on that motion are genuine.

court of that district already has before it many of the relevant facts to this action, and is in a much better position to make determinations of law and fact relevant both to the motions presently before this court as well as necessary future determinations. This litigation and its sibling proceedings are to say the least of a colossal magnitude, and the piecemeal division of its parts to a multitude of courts would be impractical, wasteful and imprudent.

#### CONCLUSION

For the convenience of parties and witnesses, and in the interests of justice, this case will be transferred to the United States District Court for the Southern District of Mississippi.

A separate order in accordance with this opinion shall issue this day.

THIS \_\_\_\_\_ day of October, 1994.

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United States District Judge

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LEATHERMAN and HUGH M. MAGEVNEY, III

DEFENDANTS

ORDER GRANTING MOTION TO TRANSFER CAUSE  
TO THE SOUTHERN DISTRICT OF MISSISSIPPI

Pursuant to a memorandum opinion issued this day, it is hereby  
ORDERED THAT:

1) the motion of the defendant First National Bank to  
transfer venue of this cause is hereby GRANTED. All proceedings in  
this cause, including all pending motions which remain before this  
court, are hereby transferred to the United States District Court  
for the Southern District of Mississippi.

All memoranda, depositions, affidavits and other matters  
considered by this court in granting this defendant's motion to  
transfer venue are hereby incorporated and made a part of the

record in this cause.

SO ORDERED, this \_\_\_\_\_ day of October, 1994.

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United States District Judge